

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Michael R. Schramm	§	Group Art Unit: 1792
Serial No.: 10/092,878	§	Examiner: Brenda A. Lamb
Filed: March 6, 2002	§	Docket: MRS-017U
For: Spill-Proof Coloring Container	§	Conf No.: 2526

**DECLARATION UNDER 37 CFR § 1.132**

Commissioner of Patents  
Alexandria, VA 22313-1450

This correspondence is being  
electronically transmitted to the  
patent office via an EFS-Web  
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Sir:

I, Michael R. Schramm, declare and say:

I am a US citizen residing at 350 West 2000 South, Perry, UT 84302. I have invented and patented numerous inventions and I am the sole inventor of the inventions disclosed in US patent No. 6,386,138 (6,386,138), and US patent application No. 10/092,878 (10/092,878) (and US patent application No. 11/618,921). As the sole inventor of the preceding patent and application, I believe I am uniquely qualified to provide both the history and abilities of the listed inventions.

Using CADKEY (a now defunct 3D wireframe Computer Aided Design (CAD) system, see for instance "<http://www.kubotekusa.com/products/cadkey.html>"), I did of my own hand, design the inventions disclosed in the drawings of 6,386,138, and 10/092,878. In addition to the non-dimensional drawings disclosed in 6,386,138, and 10/092,878, again using CADKEY, I also created dimensioned drawings included as appendix A and appendix B of this declaration.

The dimensioned drawings shown in appendix A were created from the same CADKEY 3D geometric model as those shown in 6,386,138, and the dimensioned drawings shown in appendix B were created from the same CADKEY 3D geometric model as those shown in 10/092,878.

After the filing of the application that resulted in 6,386,138 but before the filing of 10/092,878, I came to the realization that the invention disclosed in 6,386,138 would not work as intended and in fact would spill its liquid contents when containing the egg and liquid shown in the drawings of 6,386,138. It was for this very reason, that I invented the invention disclosed in 10/092,878. When the container of 6,386,138 contains the egg and liquid shown in the drawings of 6,386,138 and is rotated (including slowly rotated) sideways or into an inverted position, the egg functions as a dam to partially block the fluid flow path between the lower portion of the container assembly and the upper portion of the container assembly. Such blocking action results in spillage of the liquid contents of the container.

Subsequent to the creation of the CADKEY 3D geometric model used in creating the drawings of 10/092,878 and appendix B, I had the CADKEY 3D geometric model converted into a Solidworks (a true 3D solid modeling Computer Aided Design (CAD) system, see for instance "<http://www.solidworks.com/>") 3D solid model. I used the solid model to have a rapid prototype created of the invention disclosed in 10/092,878 by Quickparts, Inc., a rapid prototype service bureau (see for instance "<http://www.quickparts.com/>"), resulting in a prototype that is substantially identical to the invention disclosed in the drawings of 10/092,878 and appendix B. That rapid prototype is shown in appendix C of this declaration. The invention of 10/092,878 as shown in the embodiment of the rapid prototype shown in appendix C, worked as intended. The rapid prototype of appendix C contained an egg substantially submerged in the liquid as shown in appendix C and yet the rapid prototype of appendix C kept the liquid shown in appendix C from spilling when the container of appendix C was oriented in any direction.

Subsequent to the creation the rapid prototype of appendix C, a more production representative container was created via a vacuum forming process and is shown in appendix D. In particular, the photos of appendix D2 and D7 illustrate the ability of the invention of 10/092,878 to avoid the problem of the invention of 6,386,138 by using the fluid flow channels to allow the liquid to not be blocked and to more freely run from the bottom of the container to the top of the container and vice versa. Thus the invention of 10/092,878 as embodied in the production representative prototype of appendix D, unlike the invention of 6,386,138, can contain the egg shown in appendix D and the liquid shown in appendix D (with the egg immersed in the liquid) and yet will keep the liquid shown in appendix D from spilling out of the container of appendix D when the container of appendix D is oriented in any orientation. The invention of 10/092,878 as embodied in the rapid prototype of appendix C and the production representative prototype of appendix D, works so well, that a user can immerse an egg in liquid in the container, and then invert the container (at a reasonable speed) and roll the egg out of the container without spilling the liquid contents of the container.

Additional production representative prototypes were created and a sample of such prototypes are shown in appendix E. I have licensed rights to my spill resistant egg container invention to a manufacturer of Easter related consumer products. As of February 2010, the product, in a form substantially similar to that shown in appendix D and E and as shown in appendix F, was available in Shopko and Rite Aid retail chain stores in multiple locations throughout the US.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 USC§ 1001, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

DATE: April 7, 2010

Respectfully submitted,

*Michael R. Schramm*

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Michael R. Schramm  
Declarant